

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

D'ANNUNZIO ROMAN GAVIOLA
PATRON,

Plaintiff,

v.

LEWY HUGH, et al.,

Defendants.

No. 1:24-cv-00655-JLT-SAB (PC)

ORDER DISCHARGING ORDER TO SHOW
CAUSE AS FRESNO COUNTY SHERIFF

(ECF Nos. 24, 27)

ORDER TO SHOW CAUSE WHY ENTRY
OF DEFAULT SHOULD NOT BE ENTERED
AS TO DEFENDANT C. MARES

(ECF No. 27)

Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42 U.S.C. § 1983.

On July 24, 2024, the Court ordered service of the first amended complaint on Defendants registered nurse Lewy Hugh, officer C. Mares, and officer G. Herara, at the Fresno County Jail. (ECF No. 14.)

On November 20, 2024, the Court ordered the Fresno County Sheriff to show cause why sanctions should not be imposed for failing to assist the United States Marshal with service of process as to officers C. Mares and G. Herara. (ECF No. 24.)

On December 10, 2024, a response by the Fresno County Sheriff was filed. (ECF No. 27.) Therein, the Fresno County Sheriff submits that it is believed “the persons contacted about this

1 matter at [the Fresno County Sheriff's Office], as well as those who were unable to be identified,
2 acted in good faith, despite the apparent uninformed nature of certain of the directives cited by the
3 USM, and did not intent to cause unnecessary work problems for the USM, or this Court, in
4 connection with its return of service re a "G. Herara," or in t[he] case of its current employee,
5 identified as "C. Mares" the lack of timely response." (ECF No. 27 at 2.) Defendant officer C.
6 Mares has now executed a waiver of service of process, dated December 9, 2024. (ECF No. 27,
7 Ex. A.) As to Defendant G. Herara, after further investigation by the Fresno County Sheriff's
8 Office it was determined that no individual with this name is employed by the agency. (ECF No.
9 27 at 3-4.) The Fresno County Sheriff further submits that the "FSO has identified several steps
10 to improve its communications and interactions with the USM as it relates to service of process
11 (usually waivers of service)." (ECF No. 27 at 3.) On the basis of good cause, the Court will
12 discharge the order to show cause issued on November 20, 2024. However, Defendant C. Mares
13 will be directed to show cause why entry of default is not warranted given that a waiver of service
14 of process has been submitted, yet no response has been filed and guidance from the Court is not
15 necessary to do so.

16 Accordingly, it is HEREBY ORDERED that:

- 17 1. The Court's order for the Fresno County Sheriff to show cause (ECF No. 24) is
18 DISCHARGED; and
- 19 2. Within **fourteen (14)** days from the date of service of this order, Defendant C.
20 Mares shall show cause why entry of default is not warranted as no responsive
21 pleading has been filed, despite the waiver of service of process.

22
23 IT IS SO ORDERED.

24 Dated: **December 17, 2024**



25 STANLEY A. BOONE
26 United States Magistrate Judge
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